

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed September 17, 2008. At the time of the Office Action, Claims 23-40 were pending in this Application. Claims 23-40 were rejected. Claims 1-22 were previously cancelled without prejudice or disclaimer. Claims 23 and 31 have been amended to correct an informality. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claims 23-28, 30-36 and 38-40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,101,393 issued to Vladimir Alperovich et al. (“*Alperovich*”) in view of U.S. Patent Application Publication No. 2002/0110227 by James Carlton Bedingfield et al. (“*Bedingfield*”).

Claims 29 and 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Alperovich* in view of *Bedingfield* and further in view of U.S. Patent Application Publication No. 2002/0044634 by Michael Rooke et al. (“*Rooke*”).

Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int’l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination

was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The Examiner considers that *Alperovich* discloses that a message (SMS message) is sent with an identification signal from the service provider to the recipient. Office action, section 4. In this respect the Examiner refers to column 3, lines 31-34 or column 6, lines 15-20 in *Alperovich*. However, column 3, lines 31-34 refers to the message sent **from the sender to the service provider** and not, as required by independent claim 23 that the message is transmitted with an identification signal **from the service provider to a recipient**. Column 6, lines 15-20 merely states that a list in the HLR 26 could be something other than MSISDN or IMSI numbers. This does not change the fact the *Alperovich* only discloses transmitting a SMS message from the service provider to a recipient. *Alperovich*, column 3, lines 61-66.

It is noted that the Examiner concedes to that only **a message** is transmitted from the service provider to a recipient serviced by the service provider and not, as required by independent claim 23, that the method comprises transmitting **the message and an identification signal** from the service provider to a recipient serviced by the service provider. Office action, page 5, lines 4-5. Further *Alperovich* does not disclose sending **anonymous** messages. *Alperovich* is silent with respect to teachings how to screen anonymous messages.

However, *Bedingfield* is concerned with anonymous messages. The service provider (VMS) in *Bedingfield* does not provide for a list of exclusions. Consequently, a fair reading of section [0067] reveals that **all anonymous messages** are blocked. "For example, a recipient may be a subscriber of the message service who has his/her message service set up so that all messages that are anonymous are rejected or blocked." *Bedingfield*, section [0067], lines 3-6. In other words, the exclusion of messages in *Bedingfield* is based on the anonymity flag of the message and not any other information (such as a list of exclusions).

Applying the teachings of *Bedingfield* to *Alperovich* would result in a method where all messages flagged as anonymous messages are either blocked/rejected or not blocked/rejected. Thus, not adding the sender to the list of exclusion based at least on the identification signal, wherein the identification signal includes a reference to a storage

location of a message URI and a message identification element Message-ID, as required by independent claim 23 or 31. In other words, anonymous messages would be handled as taught by *Bedingfield* and not as *Alperovich*, because *Alperovich* does not address anonymous messages.

Turning to independent claims 39 and 40, *Alperovich* fails to teach the use of an alias. The use of an alias means that the original identification can not be identified, not merely an alternative name. This corresponds to sending anonymous messages. Therefore, the same facts as explained above apply to independent claims 39 and 40.

The rejection under 35 U.S.C. §103(a) is respectfully traversed because, as explained above, the cited art, when compared with the present independent claims, fails to teach, at least, receiving a request from the recipient to the service provider, the request comprising at least the identification signal if the recipient wants to have the anonymous sender of the message put on a list of exclusions, and adding the anonymous sender to the list of exclusion based at least on the identification signal, wherein the identification signal includes a reference to a storage location of a message URI and a message identification element Message-ID. Since the cited art fails to teach this difference, it is respectfully requested that the rejection under 35 U.S.C. §103(a) is withdrawn. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

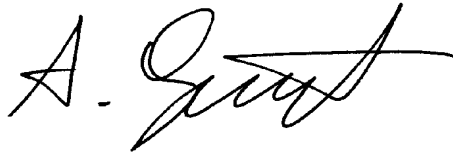
CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants

A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized flourish at the end.

Andreas Grubert
Registration No. 59,143

Date: November 17, 2008

SEND CORRESPONDENCE TO:

BAKER BOTTS L.L.P.

CUSTOMER ACCOUNT NO. **31625**

512.322.2545

512.322.8383 (fax)